

17 State Attorneys General Express Concerns with the CFPB's “Junk Fees” RFI

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On January 26, 2022, the Consumer Financial Protection Bureau (CFPB) issued a [*Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services*](#) (“RFI”). The CFPB indicated its desire to mitigate charges like credit card late fees and overdraft and non-sufficient funds fees, which it said accounted for billions of dollars in 2019. The CFPB stated that its goal is to “strengthen competition in consumer finance by using its authorities to reduce these kinds of junk fees.”

On April 11, 2022, seventeen state attorneys general submitted a comment for the RFI. Initiated by Texas and Utah, the states’ comment expressed concern that the RFI was sufficiently broad to potentially encompass a number of fees, including fees specifically authorized or regulated by state law. In their reply, the states noted that they “have carefully weighed consumer protection interests and the open and transparent operation of markets in a manner intended to deliver the maximum benefit to the interests of their states” and “are much better positioned to understand and assess the diverse interests of their states.” Additionally, the states believe that the CFPB authority is limited with respect to regulating fees and pointed out these limitations. The states also expressed their view that more federal oversight would be redundant because states already regulate many fees for consumer financial products and services. The comment goes on to explain that the states are willing to work with the CFPB to promote its statutory purpose of “ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.” However, the states argued consumers and consumer financial services markets are better served when federal and state entities collaborate. Therefore, the CFPB’s view that its authority may be superior to that of the states with respect to these fees is a cause for concern. The states explained that the CFPB’s “approach is especially troubling in the context of this RFI, which pointedly fails to acknowledge the significant role state law plays in many aspects of the fees implicated by the RFI. Unfortunately, the only role the CFPB contemplates for states is to provide comments to the RFI, along with consumers, consumer advocates, and industry.”

In sum, the states ask the CFPB to “abandon its apparent determination to adopt an uncooperative posture” and work with them with respect to existing state laws on fees.

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